

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 04/23/2024

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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COMMODITY FUTURES TRADING	:	
COMMISSION,	:	
	:	22-CV-3822 (VEC)
Plaintiff,	:	
	:	<u>ORDER</u>
-against-	:	
	:	
EDDY ALEXANDRE and EMINIFX, INC.,	:	
	:	
Defendants.	:	
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VALERIE CAPRONI, United States District Judge:

WHEREAS on April 1, 2024, the Receiver requested that the Court authorize him to enter into a settlement agreement with 34th Suites LLC, Dkt. 288;

WHEREAS the Receiver represented that the CFTC consented to the Settlement Agreement and represented that he had not consulted with Mr. Alexandre prior to seeking Court permission to enter into the Settlement Agreement, *id.*;

WHEREAS on April 2, 2024, the Court ordered Mr. Alexandre to respond to the motion for approval of a Settlement Agreement by April 12, 2024, and further ordered Mr. Alexandre to add the Receiver as an approved contact in the CorrLinks system, Dkt. 290;

WHEREAS on April 10, 2024, the Receiver filed a letter stating that he had been contacted by Mr. Alexandre via CorrLinks and that Mr. Alexandre told him that he did not consent to the Settlement Agreement, Letter, Dkt. 293;

WHEREAS the Receiver responded to Mr. Alexandre's email and reminded him of the April 12, 2024, deadline to respond to the Receiver's request, *id.*;

WHEREAS the Court did not receive a response from Mr. Alexandre by the Court-ordered deadline, including the additional 3 days allowed for mailing pursuant to Federal Rule of Civil Procedure 6(d);

WHEREAS on April 18, 2024, the Court approved the settlement and authorized the Receiver to enter into the Settlement Agreement, Dkt. 294;

WHEREAS on April 19, 2024, the Receiver informed the Court that, on April 18, 2024, he received a document from Mr. Alexandre, dated April 11, 2024, and postmarked April 12, 2024, opposing the Settlement Agreement and filed a copy of Mr. Alexandre's response,¹ Dkt. 295;

WHEREAS on April 19, 2024, the Court received a copy of that same response, which was docketed on April 23, 2024, Resp., Dkt. 297;

WHEREAS in that response, Mr. Alexandre argues that the Settlement Agreement should not be approved because it does not indemnify him although he guaranteed EminiFX's lease, and that the Court's order requiring him to add the Receiver as an approved contact in the CorrLinks system violates his First Amendment rights, *id.*; and

WHEREAS Mr. Alexandre further represented that he had not received the Court's April 2, 2024, Order, and moved for an extension of time to respond to the Receiver's request for approval to enter into the Settlement Agreement, *id.*

IT IS HEREBY ORDERED that Mr. Alexandre's request for an extension of time is DENIED. The Court reminds Mr. Alexandre that, despite his *pro se* and incarcerated status, he must comply with all Court-ordered deadlines. *See Tatintsian v. Vorotyntsev*, 2021 WL 780139,

¹ The response is captioned: "Motion in Response of Application for Approval of Settlement Agreement with 34th Street Suites LLC" and includes a certificate of service indicating that it was mailed to the Receiver, the Court, and the CFTC. Dkt. 295-1.

at *5 (S.D.N.Y. Jan. 27, 2021) (noting that *pro se* deadlines must comply with procedural deadlines). The Court further notes that it is skeptical of Mr. Alexandre's representation that he had not received the Court's Order by April 12, 2024 (the date the response was mailed to the Receiver), because the order requiring Mr. Alexandre to respond to the Receiver's request for permission to enter into the Settlement Agreement was the same Order that required Mr. Alexandre to add the Receiver as an approved contact in the CorrLinks system. Mr. Alexandre has evidently received that Order because he objects to it. Because he had added the Receiver as a contact by April 10, 2024, it would appear that he had received the Court's Order by at least that date. Letter, Dkt. 293. Mr. Alexandre's request for more time to respond to the Receiver's request strikes the Court as just yet another delay tactic.

IT IS FURTHER ORDERED that, after carefully reviewing the arguments raised in Mr. Alexandre's response, the Court declines to disturb its prior order authorizing the Receiver to settle with 34th Suites LLC and approving the Settlement Agreement. The Settlement Agreement represents a fair and reasonable resolution of 34th Suites LLC's claim against EminiFX. The Receiver represents EminiFX, Inc. only, and has no authority or obligation to negotiate with claimants regarding any claims against Mr. Alexandre in his personal capacity.

IT IS FURTHER ORDERED that the Court finds that its Order requiring Mr. Alexandre to add the Receiver as a contact does not violate his First Amendment rights, despite his conclusory claim to the contrary. Being required to receive communications from the Receiver via email, rather than postal mail, does not violate any of the constitutional rights enumerated in the First Amendment, including free speech and freedom of association.

IT IS FURTHER ORDERED that the Clerk of Court is respectfully directed to mail a copy of this Order to Eddy Alexandre, Reg. No. 00712-510, FCC Allenwood-Low, P.O. Box 1000, White Deer, PA 17887, and to note the mailing on the docket.

SO ORDERED.

Date: April 23, 2024
New York, NY



VALERIE CAPRONI
United States District Judge